

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

STANLEY HENRY,)	
)	
Plaintiff,)	
)	
V.)	Case No. 10-cv-058-MJR-SCW
)	
HAROLD BUCHMEIER, JOHN COX,)	
SHANE HARRISON, GLENN HOWARD,)	
DARRYL KERN, MARY ANN SCHUTT,)	
RAY SOLIDAY, CHARLEY STEVENS,)	
NORMAN SUITS, DAVID TAYLOR, and)	
DAMON WOOLRIDGE,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

REAGAN, District Judge:

In January 2010, Plaintiff Stanley Henry filed suit pursuant to 42 U.S.C. § 1983 alleging deprivations of his constitutional rights by personnel at Vienna Correctional Center (located within the Southern District of Illinois). On July 12, 2012, faced with Defendants' motion for summary judgment, Plaintiff Henry moved to voluntarily dismiss this action, pursuant to Federal Rule of Civil Procedure 41(a)(2) (Doc. 85). Defendants do not object to the proposed voluntary dismissal, but they ask that Plaintiff be subject to Federal Rule of Civil Procedure 41(d).

In accord with 28 U.S.C. § 636(b)(1)(B), Magistrate Judge Stephen C. Williams issued a report (Doc. 90) and recommended Plaintiff's motion to dismiss be granted, and the case be dismissed without prejudice. Judge Williams further recommended that if Plaintiff were to attempt to file a new claim based on the same allegations, Plaintiff should be ordered to comply with the terms of Federal Rule of Civil Procedure 41(d), in that Plaintiff would then be required

to pay all of the cost of this prior action and the proceedings of the new case would be stayed until that payment was made.

Both the report and a separate notice attached advised the parties of their right to challenge Judge Williams' report and recommendation by filing objections within fourteen days. To date, no objections have been filed by the parties, no extension of the deadline was sought, and the period in which such objections may be filed has expired.

Therefore, pursuant to 28 U.S.C. § 636(b), this Court need not conduct *de novo* review. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1985); *Video Views Inc., v. Studio 21, Ltd.*, 797 F.2d 538 (7th Cir. 1986).

Accordingly, the undersigned District Judge **ADOPTS in its entirety** Judge Williams' Report and Recommendation (Doc. 90), **GRANTS** Plaintiff Henry's motion to voluntarily dismiss this action without prejudice (Doc. 85), and **DIRECTS** the Clerk of Court to enter judgment reflecting that this action is **DISMISSED without prejudice**, with all parties bearing their own costs.

It is further ordered that, in accordance with Federal Rule of Civil Procedure 41(d), if Plaintiff files another action based on or including the same claim(s) against any of the Defendants in this action, Plaintiff will be ordered to pay all of the costs of this action, and the new action will be stayed until Plaintiff has complied with this payment requirement.

IT IS SO ORDERED.

DATED: August 31, 2012

s/ Michael J. Reagan

MICHAEL J. REAGAN
UNITED STATES DISTRICT JUDGE